

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Donald Forkner

Art Unit: 3742

Serial No.: 10/580,581

Examiner: Timothy Simone

Filed: 05/25/2006

For: Dual Temperature Pizza Oven

Confirmation No: 5364

RESPONSE TO OFFICE ACTION

Mail Stop After Final
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the final Office Action sent on November 24, 2009.

Claims 1 and 3-6 are pending and stand rejected in the above-identified patent application.

Rejection Under 35 U.S.C. §112

Claims 1 and 3-6 stand rejected under the first paragraph of 35 U.S.C. §112 as allegedly failing to comply with the written description requirement. It is contended that the claims contain subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

First, the examiner could find support in the original specification for the language in amended claims 1 and 4 about the housing having “a front size [sic]”. It is assumed that the rejection has a typographical error and refers to the passages about a housing having a front **side**. Claim 1 further states that the front side has an opening and that a electronic user operable control is integrated into the front side of the housing.

It is respectfully submitted that Figure 1 of the application as filed clearly shows the oven 10 having a housing with a **front side** on which the control display 14 is located. Paragraph [0009] of the application states that the control display 14 is on the front of the oven 10. It is clear that the term “front” as used in this application has a standard dictionary definition and means the forward part or surface, such as “a side of a building”, see *Mirriam Webster’s Collegiate Dictionary - Tenth Edition*, Mirriam Webster Inc., 1994, p. 468 (copy enclosed). As a consequence, it is clear that both the language and the drawings of the specification as filed, support the claimed language that the of an electronic user operable control integrated on the front side of the housing.

Furthermore, it is well settled that the first paragraph of 35 U.S.C. §112 does not require that the claim phraseology be stated verbatim in the specification. As in fact noted in the statement of the rejection, a patent disclosure only needs to describe the invention in sufficient detail to be understood by a person of ordinary skill in the relevant art. A applicant may omit from the disclosure any routine technology that is well understood at the time of application, see *Hybritech Incorporated v. Monoclonal Antibodies Inc*, 802 F.2d 1367, 1384 (Fed. Cir. 1986), *Chiron Corporation v. Genentech Inc*, 363 F.3d 1247,1254 (Fed. Cir. 2004), cert denied 543 U.S. 1050 (2005). Based on this standard

the claim concept of the housing having a “front side” is fully supported by the application as filed.

In addition, the terms “first user selectable” and “to activate the electric heating elements” in Claims 1 and 4 were cited as allegedly unsupported in the specification as filed. The original specification, when read in its entirety clearly supports the final paragraph in claim 1 which states:

“a electronic user operable control integrated into the front side of the housing, and comprising a first user selectable temperature selection control operable to activate the electric heating elements at a first temperature appropriate for cooking pre-baked crust pizzas and a second user selectable temperature selection control operable to activate the electric heating elements at a second temperature appropriate for cooking self-rising crust pizzas.”

(emphasis added)

Claim 4 has a similar ultimate paragraph.

First of all, the original version of claim 1 stated that the electronic user operable control had “two temperature selection user selectable controls thereon.” That claim further stated that one of those temperature selection controls caused the oven to cook at one temperature and operating the lower temperature selection control caused the oven to cook at another temperature. This is the function of the first and second temperature selection controls in the present version of claims 1 and 4.

Furthermore, the Detailed Description of the Invention in paragraph [0009] states that the control display 14 has user operable inputs in the form of buttons, two of which “are alternately for high and low temperature cooking”. Paragraph [00010] states that the oven has upper and lower heating elements under the electronic digital control. Paragraph

[00011] then further states, “If the low temperature button is pressed, the oven will default to cook at a temperature around 350° F”. This paragraph goes on to recite that If the user presses the high temperature button, the oven begins cooking at 450° F. Paragraph [0012] specifies that “The user has only to pick on of two buttons, depending on the type of pizza being cooked, to operate the oven.

When this written description and the drawings of the application as filed are considered in total, there clearly is support that the electronic user operable control has a first user selectable temperature selection control (for example, the low temperature button) that activates the heating elements to cook at a first temperature (e.g. 350°), and a second user selectable temperature selection control (for example, the high temperature button 24) that is operable to activate the heating elements at a second temperature (450° F). As a consequence, the written description in conjunction with the drawings clearly supports the subject matter of the amended claims.

As noted previously, the written description requirement in the first paragraph of 35 U.S.C. § 112 does not require that the claim language be stated verbatim in the specification. Instead the specification must convey to one skilled in the art that the inventor, at the time the application was filed, had possession of the claimed subject matter. It is clear that someone skilled in the art of electronic controls for ovens would understand, from the written description of the present application, that the inventor possessed the subject matter now recited in the claims.

Therefore, applicants request withdrawal of the rejection under 35 U.S.C. § 112.